(1)

Supreme Court, U.S.

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NO.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

JAMES ERVIN WRIGHT
PETITIONER

VS.

MASS TRANSIT ADMINISTRATION
RESPONDENT.

PETITION FOR WRIT OF CERTIORARI

IN THE COURT OF APPEALS OF MARYLAND

PETITION FOR WRIT OF CERTIORARI

JAMES ERVIN WRIGHT
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BALTIMORE, MARYLAND
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PRO SE PETITIONER

QUESTIONS FOR REVIEW

1. Did the Hearing Board violate Petitioner's Constitutional Rights Under the Fourteenth Amendment Relation to Due Process by not allowing Petitioner's witnesses to testify.

2. Did the Mass Transit Administration Police force violate Petitioner's Civil Rights by firing Petitioner because he is a male.

LIST OF ALL PARTIES

1) James E. Wright, Petitioner

2) Mass Transit Administration, Respondent Kathleen Masterson Assistant State Attorney for the State of Maryland

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II. ORDERS, OPINIONS AND MANDATES BELOW

The Circuit Court of Baltimore City hearing on James E. Wright Petition for judicial review on April 19, 1995 was ordered by Judge Richard T. Rombro on the 29th day of November, 1995 is affirmed.

Petitioner filed through the Court of Special Appeals and on February 25, 1997 Petitioner received unreported opinion from the Court of Special Appeals of Maryland No 740 September Term 1996 affirming the judgment. Petitioner then filed motion for reconsideration to the Court of Special Appeals. On April 17, 1997 Petitioner received a mandate from the Court of Special Appeals denying petitioner writ of certiorari and denying petitioner request to publish the opinion filed by counsel on behalf of the office of the Attorney General. Petitioner then filed for a writ of certiorari to the court of appeals. On June 27, 1997 The Court of Appeals issued an order denying petitioner's writ of certiorari stating that there has been no showing that

review by certiorari is desirable and in the public interest. Petitioner filed a motion for reconsideration to the Court of Appeals, and on the 10th day of September, 1997 the Court of Appeals of Maryland issued an order denying the motion.
All these orders opinions and mandates are appended.

III. Jurisdiction

The judgement of the Court of Appeals of Maryland sought to be reviewed by this court who has jurisdiction under 28U.S.C. $1254(1).

IV. CONSTITUTIONAL PROVISIONS, MARYLAND RULES, ANNOTATE CODES OF MARYLAND AND LAW ENFORCEMENT OFFICERS BILL OF RIGHTS (LEOBR)

Constitutional Provisions:

The Fourteenth Amendment to the United States Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall

make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

MARYLAND RULES:

Rule 5-616. IMPEACHMENT AND REHABILITATIONN - GENERALLY

(a) Impeachment by Inquiry of the Witness.

- - The credibility of a witness may be attacked through questions asked of the witness, including questions that are directed at:

(1) Proving under Rule 55-613 that the witness has made statements that are inconsistent with the witness's present testimony;

(2) Proving that the facts are not as testified to by the witness.

(3) Proving that an opinion expressed by the witness is not held by the witness or is otherwise not worthy of belief;

(4) Proving that the witness is biased, prejudiced, interested in the outcome of the proceeding, or has a motive to testify falsely;

(5) Proving lack of personal knowledge or weaknesses in the capacity of the witness to perceive, remember, or communicate; or

(6) Proving the character of the witness for untruthfulness by (I) establishing prior bad acts as permitted under Rule 5-608 (b) or (ii) establishing prior convictions as permitted under Rule 5-609.

Rule 5-404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT; EXCEPTIONS; OTHER CRIMES

(b) **Other Crimes, Wrongs, or Acts.-** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or

plan, knowledge, identity, or absence of mistake or accident.

Rule 5-608. EVIDENCE OF CHARACTER OF WITNESS FOR TRUTHFULNESS OR UNTRUTHFULNESS

(a) Impeachment and Rehabilitation by Character Witnesses.-
(1) Impeachment by a Character Witness. - In order to attack the credibility of a witness, a character witness may testify (A) that the witness has a reputation for untruthfulness, or (B) that, in the character witness's opinion, the witness is an untruthful person.

ANNOTATED CODE OF MARYLAND:

Article 2. Constitution, laws and treaties of United States to be supreme law of State.

The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made,under the authority of the United States, are, and shall be the Supreme Law of the State; and the

Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

Article 21. Rights of accused; indictment; counsel; confrontation; speedy trail; impartial and unanimous jury.

That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the Indictment, or charge, in due time (if required) to prepare for his defense; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Article 24. Due process.

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his

life, liberty or property, but by the judgment of his peers, or by the Law of the land. (1977, ch. 681, ratified Nov. 7, 1978.)

Art. 27, $ 728

Meaning of subsection (b) (8). - Subsection (b) (8) of this section, wherein it states that the record of the interrogation shall be "either written, taped, or transcribed," means that the record may be wholly written, or wholly taped, or wholly transcribed, or a combination of any two or more of the three methods, so long as there is a complete and preserved record for the review by counsel and by a court, if there be an appeal. Widomski v. Chief of Police, 41 Md. App.361,397 A.2d 222, cert. denied, 284 Md. 750 (1979)

Art. 27, $ 730

(e) Evidence.- Evidence which possesses probative value commonly accepted by reasonable and prudent men in the conduct of their affairs shall be admissible and shall be given probative effect. The hearing board conducting the hearing shall give

effect to the rules of privilege recognized by law, and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. All records and documents which any party desires to use shall be offered and made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(f) Cross-examination and rebuttal of witnesses. - Every party has the right of cross-examination of the witnesses who testify, and may submit rebuttal evidence.

Article 46. Equality of rights not abridged because of sex.

Equality of rights under the law shall not be abridged or denied because of sex. (1972, ch.366, ratified Nov.7, 1972, ch. 681, ratified Nov. 7, 1978.)

LAW ENFORCEMENT OFFICERS BILL OF RIGHTS:

LEOBR RIGHTS 1.8.05 Proffers

In order to protect the record for appeal purposes, a party whose question has been prohibited by the Board, may offer a proffer of what the

testimony would have been had the question been allowed. This permits a reviewing court to examine the evidence in the event there is a finding that the Board erred in not permitting the question.

LEOBR RIGHTS 1.8.06 Impeachment of Witnesses

An attack on the credibility of a witness is called impeachment. A witness's credibility may always be attacked on cross-examination irrespective of the scope of direct examination, and such attack includes the right to introduce extrinsic evidence of a witness's credibility.

A witness may be impeached by showing that he (1) is biased or prejudiced, (2) is incapacitated from being a witness, (3) has a bad reputation in the neighborhood for truth and veracity, (4) has been convicted of a crime involving moral turpitude, (5) has committed specific acts of misconduct, (6) has made prior statements inconsistent with his present testimony, (7) has some ulterior motive or stake in the outcome of the hearing or (8) has been solicited to commit perjury.

STATEMENT OF FACTS

On November 11, 1993 Petitioner was accused by two female officers of sexual harassment. The female officers stated that Petitioner exposed himself in their presence. Petitioner denied exposing himself and thirteen (13) months later he would be before a three person LEOBR Panel selected by the Respondent Chief. It would be their responsibility to be finder of fact and law, deciding in essence, the fate of Petitioner.

The hearing board found Petitioner not guilty of violating the policy of mutual respect and guilty of policy violation of sexual harassment and conduct unbecoming an officer. The hearing board recommended 135 days without pay.

A hearing held with the Chief April 19, 1995 resulted in the Chief terminating petitioner's employment. However, during an investigation the respondent became aware of a pattern of on the job prior conduct of officer Ward and Crowder of inappropriate sexually provocative behavior with no action taken by the respondents. Additionally the respondents turned a

blind eye to their female officers conduct violating the petitioner's due process and equal protection guarantees of fairness. (See article 46 Equality of Rights Not Abridged because of sex)

The arbitrary an capricious action violated the constitutional rights to due process and a fair hearing quaranteed by both the United States constitution under the 14th amendment. Petitioner denied exposing himself to Officers Ward and Crowder. Counselor for petitioner attempted to cross examine Ward and Crowder about pulling down petitioner's pants and underwear and fondling petitioner's penis in the presence of male and female officers. The hearing officer denied counsel for petitioner the right to cross examine Ward or Crowder relating to prior acts committed by Ward and Crowder against Petitioner. Action of the hearing board violated Maryland rule 5-616 (Impeachment of the Witness). And violated the petitioner's rights under the 14th Amendment relating to due process. Petitioner having been a shop stewardess and union vice-president for several years has never heard of a hearing officer denying constitutional rights for the

impeachment of a witness. The hearing board violated petitioner's rights see Maryland rules 5-616; 5-404; and 5-608 also see Annotated Code of Maryland Article 46, Article 24 and Article 27,$730 also see LEBOR rights 1.8.06 Impeachment of Witnesses.

The Court of Special Appeals of Maryland, in Hopkins v. Maryland Inmate Grievance Comm'n., 40 Md. App. 329, 391 A.2d 1213 (1978), stated:

It is well established that rules and regulations promulgated by an administrative agency cannot be waived, suspended or disregarded in a particular case as long as such rules and regulations remain in force. 2 Am.Jur.2d Administrative Law, Paragraph 350, 1 Cooper, State Administrative Law pp.266-67 (1965 Edition) ; K. Davis, Administrative Law of the 70's Section 5-0305 (Cum.Supp. 1977). This rule has been recognized in federal and state jurisdictions and has become known as the "accardi doctrine" since it was announced in U.S. ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 744 s> Ct.499,98 L.Ed. 681 (1954). There the Supreme Court vacated a deportation order of the Board of immigration'of Appeals because the board and the

Attorney General failed to follow their own regulations. This doctrine has been broadly applied. See Service v. Dulles, 354 U.S. 367, 77 S. Ct. 1152, 1 l. Ed.2d 1403 (1959), where the court held that the executive department may not discharge an employee in a manner inconsistent with its own regulations. In United States v. Heffner, 420 F.2d 809 (4th Cir. 11970), Internal Revenue Service special agents failed to follow their own procedures regarding the interrogation of taxpayers suspected of criminal tax fraud. That Court enunciated what appears to be the prevailing rule when it held: "An agency of the government must scrupulously observe rules, regulations and procedures which it has established. When it fails to do so, its actions cannot stand and courts will strike it down." Id., at 811, and one of the agency rules was the Truthfulness Policy. The United States Supreme Court had definitively stated that, "policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights." Garrity v. New Jersey, 385 U.S. 493, 500 (1967). The Mass Transit Administration knew the

Hearing Board violated Petitioners rights by not allowing Petitioners Due Process relating to the impeachment of a witness. Petitioner would like for this Honorable Court to have the Mass Transit Administration Hearing Board and Chief Foster give Petitioner the same rights given to Chief Jolley in the case Horne vs. Jolley and the City of Aberdeen Case NO. 18994-39-487 (1994). Chief Jolley was allowed to present witnesses and present evidence of pass conduct of the complainant. Appellate Courts must look at the evidence in the light most favorable to its proponent, maximizing it probative value and minimizing it prejudicial effects. United States v. Petrov, 747 F.2d 824 (2d cir 1984) On page 13 of the Opinion it states there is no evidence to support Petitioners contention that the Board or Chief Foster knew that Mass Transit Administration witnesses had testified falsely. Petitioner provided the Court of Appeals with evidence that came from Mass Transit Administration witnesses and from Petitioners witnesses that Mass Transit Administration witnesses testified falsely.

Chief Justice Warren stated that testimony that has poisoned the water in the reservoir, and the reservoir, can't be cleaned without first draining it of all impurities. Chief Justice Warren said, that it's the duty of the courts to see that the water of justice are not polluted, the government of a strong and free nation does not need conviction based upon such testimony. (see Mesarash vs. The United States) Chief Justice Reed and Chief Justice C.J. Minton agreed with Chief Justice Warren they also pointed out that the court must not only do justice; it must do justice publicly, so that everyone can see it is being done.

Petitioner have provided the Courts with evidence that Proffer was made relating to the Hearing Board by Petitioners Counsel and Counsel made it known to chief Foster that Proffer was made and those same Proffers were made to Chief Foster that was made to the Hearing Board. Had that evidence been allowed the Hearing Board would have heard from Petitioners witnesses. Some of those witnesses contained management personnel that had knowledge of prior incidents of Ward and Crowder toward Petitioner.

Therefore, Petitioner is asking this Honorable Court to reverse the decision of the Hearing Board and Chief Foster, because the Hearing Board denied Petitioners Due Process. The Hearing Board procedures were unlawful, the Proffers should have been allowed so that Petitioner could show that the witnesses were biased. The witnesses had a bad reputation in the neighborhood for the truth and veracity. The witnesses has committed specific acts of misconduct. The witnesses had made prior statements inconsistent with there present testimony. The witnesses had an ulterior motive and the witnesses had a stake in the outcome of the hearing. A Defendant should be afforded the opportunity to present facts which, if believed, could lead to the conclusion that a witness who has testified against him either favored the prosecution or was hostile to the defendant, the right to "placed the witness in his proper setting and put the weight of his testimony and his credibility to a test" is an essential safeguard to a fair trial. Under Alford vs. United States 282 U.S. 687 Exercise of this right is particularly crucial where the witness offers

damaging identification testimony, for in the absence of independent contrary evidence, a defendant must rely upon impeachment of the witness credibility. This right was denied to Appellant by the Hearing Board.

Petitioner was treated different because he is a male. Petitioner shift commander testified at the hearing that petitioner was above average in performing his duties and petitioner could be counted on to be at work (petitioner never missed a day in 13 years for sickness). The shift commander stated to the hearing board that he had problems with Ward and Crowder. The shift commander also state that other shifts have had problems with Ward the complainant. Petitioner have had several problems with officer Ward and Officer Crowder. The incidents was reported to petitioner's shift commander and petitioner filed grievances with the Mass Transit Administration - Police Union. Petitioner submitted copies of the complaints to the Court of Appeals and a copy of the grievance petition filed to the Union. Mass Transit Administration states it didn't know that petitioner was being harassed by

their witnesses because petitioner never made a complaint. On September 29, 1993 petitioner wrote to shift commander and informed shift commander that petitioner would not be using a locker in the men's locker room. The reason was Ward and Crowder is always walking in while the officers are undressing. Petitioner stated their action brings back memories of Ward and Crowder and Crosby attacking petitioner and removing Petitioners pants and underwear and fondling petitioners penis in presence of other officers. The shift commander said it was ok I didn't have to undress in the men's locker room. On October 13, 1993 Petitioner reported to the shift commander about Officer Crowder and Ward treatment towards the petitioner. Also, in the report petitioner informed shift commander that Lt. Wheeler ordered petitioner to pick on the same shift Ward worked, even though petitioner informed Lt. Wheeler of the problems between petitioner and Ward. On October 20,1993 Petitioner filed a grievance with the Union relating to Lt. Wheeler ordering petitioner to pick on the same shift worked. Lt, Wheeler's order to petitioner was in violation of the

Union contract. November 8, 1993 Officer Ward and Crowder walks into the mens locker room while the male officers are undressing and Officer Ward makes a comment about Officer Joe Whynn's sexy blue underwear and on November 9, 1993 petitioner informed the shift commander that Officer Ward and Crowder were in the mens locker room while undressing. On November 11, 1993 Officer Ward and Crowder accused petitioner of exposing himself. This information was submitted to the Courts of Appeal. This information was brought to the Chiefs attention by petitioner.

There was a case held before the Honorable Wilbur D. Owens, Jr. of the U.S. District Court for the middle district of Georgia, the case was Wise vs. Mead Corp. Civil Action 83-166-1 MAC Honorable Judge Wilbur D. Owens wrote in his eight page opinion that Ms. Wise civil rights was violated when Mead Corp. terminated her employment because Mead had retained male employees for doing nearly the same thing Wise was terminated for. Honorable Judge Wilbur D. Owens ordered Mead Corporation to reinstate Wise immediately. Officer Crowder admitted on the same tape that

resulted to petitioner being charged of indecent exposure(which petitioner denies) that she exposed her TIT (breast) to Womack. Officer Crowder Officer Ward and Officer Crosby have attacked other male officers and male employees of the Mass Transit Administration by pulling down the males pants. On a couple occasions these female officers would pull down the males pants and underwear. Petitioner was one of the males whom Officer Ward, Officer Crowder and Officer Crosby pulled down petitioners pants and underwear in the presence of other officers and no action was taken by the Mass Transit Administration. The incidents that was committed by Ward, Crowder and Crosby relates to Wise vs. Mead Corp. Civil Action 83-166-1 MAC. Petitioners civil rights were violated under Title VII of the Civil Rights Act of 1964. The police investigative department confirmed petitioners statement through the male and female officers that were present. Officer Ward and Officer Crowder testified falsely when they gave the description of petitioners penis to the hearing board because they had seen petitioners penis through their prior actions toward petitioner. This

information was given to the Courts that Mass Transit Administration knew of these acts before Petitioner was accused by Ward and Crowder.

Just as Chief Justice Reed and Chief Justice C.J. Minton agreed with Chief Justice Warren in the case Mesarash vs. The United States when the witness lied on the behalf of the United States all charges were dismissed against Mesarash. On January 21, 1998. Chief Justice William H. Rehnquist wrote for the Court that the constitution and federal law do not bar extra punishment for Liars. The Court of Appeals was provided information that the witness lied on Petitioner in the case with the Mass Transit Administration and the Hearing Board that was set up by the Mass Transit Administration denying Petitioner due process by not allowing Petitioners witnesses to testify about facts that was known to witnesses. As a result of the Hearing Boards ruling the following witnesses were not allowed to testify for the impeachment of the Mass Transit witnesses. The witnesses were Officer's James Drewery, Curt Wagner, Joseph Wynn, Launa Harcum, Carolyn Jackson, Vernell

MacDavid, Corporal Lester Brumfield, Sergeant John DiGiovine, Lieutenant Millard Richberg, and Charles Monroe.

WHEREFORE the Petitioner petitions this Court to review the decisions of the Court of Special Appeals, Court of Appeals and LEOBR Panel decision by Chief Foster and conclude that as a matter of law substantial and prejudicial errors were made in an illegal, arbitrary and capricious manner resulting in the adverse decision against the Petitioner.

Petitioner respectfully request this Court to issue of Writ of Certiorari to the Court of Appeals of Maryland to review, and upon review to reverse the findings of the Hearing Board.

Respectfully submitted,

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IN THE
CIRCUIT COURT FOR BALTIMORE CITY

JAMES WRIGHT
Petitioner

Case No.95137046
CL197011

v.

MASS TRANSIT ADMINISTRATION,
Respondent

ORDER

The above captioned matter having come before this Court on James Wright's Petition for Judicial Review of the April 19, 1995 final decision of the Mass Transit Administration's Chief of Police terminating Mr. Wright's employment, and the Court having fully considered the administrative record, the pleadings and memoranda filed by both parties, and the arguments of each, and the Court having found no grounds exist for the reversal or remand of the challenged decision.

IT IS ORDERED on this 29th day of November, 1995, that the final decision, dated April 19, 1995, be, and it hereby is, affirmed in its entirety.

APPENDIX A

Judge Richard T. Rombro
The Judge's signature
Appears on the original
Document.

JUDGE

APPENDIX A-1

APPENDIX B

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 740

September Term 1996

JAMES WRIGHT

v.

MASS TRANSIT ADMINISTRATION

Moylan,
Salmon,
Sonner,

JJ.

Per Curiam

Filed: February 25, 1997

Appellant, James E. Wright (Wright) was, on Thursday, November 11, 1993, a police officer employed by the Mass Transit Administration (MTA). On that date, he reported for duty and encountered two other MTA police officers, viz: Eileen Ward (Ward) and Hasseline Crowder (Crowder).

What happened in the encounter between the three officers is hotly disputed and was the subject of a two-day hearing held pursuant to the Law Enforcement Officers Bill of Rights (LEOBR) Md. Ann. Code art. 27, s 727 et. seq. (1996 Repl. Vol.). At the conclusion of the hearing, the three hearing officers found Wright quilty of conduct unbecoming an officer and quilty of violating the MTA'S sexual harassment policy. As punishment, the board recommended that Wright be suspended, without pay, for 135 days. MTA's Police Chief, Bernard Foster, after reviewing the evidence presented to the trial board and its recommendations, and after hearing argument on the matter, decided to increase the penalty to termination of employment. On May 17, 1998, pursuant

to Maryland Rule 7-2-2, Wright appealed to the Circuit Court for Baltimore city (Rombro, J., presiding). The Chief's decision was affirmed, whereupon Wright noted this timely appeal.

I. TRIAL BOARD TESTIMONY OF WARD

On November 11, 1993, about 5:45 a.m., Ward was standing in the hallway of an MTA police station, chatting with Crowder, when Wright stepped out of an elevator and approached them. The two female officers had just finished singing a song entitled, "There's a whore in the house." Wright politely said, "Good morning ladies" to which WARD REPLIED, "hi, Jim." Crowder then commented, referring to Wright, "That's the biggest whore in the house." Ward interjected, "Ooh, Jimmy, are you going to let her say that to you?" Wright replied, "If she said it, it must be so." He then "started to rub himself" in his "penis area," and Ward said to Crowder, "Stop. Don't say anything else to him, [be]cause he's getting excited." Wright laughed and

said that he was not excited. When he made this last remark, Wright "looked [to Ward] like he was about to unzip his fly." Ward said, "Don't do that," whereupon Wright "took his penis out and let it hang." Ward exclaimed, "Ohh, my God, I don't believe he did that," whereupon Wright put his penis back in his pants. Shortly thereafter, Corporal Harlee walked by.

Prior to roll call, Officer Ward told Corporal Harlee what had happened. Ward also told the Corporal that she did not think Wright's actions were proper. She requested that he talk to Wright about his actions and "ask him not to do it again."

The lighting conditions where the aforementioned incident occurred were "not super bright" but provided enough illumination so that there was no doubt in Ward's mind that she saw Wright expose his penis to her. In her words, the penis was "big, black . . .[a]nd unusual looking." The penis was not erect, "it just hung there."

About three or four hours after the incident, Wright went to the radio room where Ward worked. He was in a "panic state" and asked Ward to step outside the radio room. Ward complied, and the two walked to the stairwell where Wright apologized "for taking his penis out".

Ward wrote a report several hours after the incident occurred. She was also interviewed by her supervisors, and she told them that Officer Wright exposed his penis. In describing the penis she said, "it looked like it may not have been circumcised." She was asked by her supervisors if the head of the penis was visible, to which she replied, "I didn't look that long."

The report that Officer Ward wrote concerning the incident was admitted into evidence before the trial board. Except for a few minor details, Ward's written statement was consistent with her testimony before the board.

II. TESTIMONY OF OFFICER HASSELINE CROWDER

Because of technical difficulties, almost all of Crowder's testimony was lost. That testimony, however, was summarized by the trial board as follows:

> Officer Crowder testified she had completed her roll call and gone to the locker room where she met Office Ward. The two went out in the hall where they continued their conversation. Then Officer Wright came off the elevator the bantering began. Officer Wright unzipped his pants and pulled his penis out. Officer Crowder said eeew while Officer Ward said she couldn't believe he did that. Officer Wright put his penis away and went into the roll call room. Officer Wright was approximately 15 feet from Officer Crowder when he exposed his penis.
>
> After Officer Crowder reported to her duty assignment, she received telephone calls from Officer Damon, Corporal Spann and Sergeant Bauer. Each telephone call was an inquiry as to whether

the incident did occur. Officer Crowder was ordered to return to Corporal Spann and Sergeant Bauer's offices.

Officer Crowder stated she did not tell anyone before, but upon returning to the building she was met by Officer Wright. He asked to speak to her and the two went into the stairwell. Officer Wright asked Officer Crowder not to tell about the incident. He asked her to say it was his finger she saw. Officer Crowder told Officer Wright she didn't file the complaint, he should talk to Officer Ward.

Officer Crowder was shown and she identified her report dated November 11, 1993. The report was entered and accepted as Prosecution Exhibit #7.

Mr. Robinson [counsel for Wright] objected to and requested Officer Crowder's testimony regarding Officer Wright speaking to her in the stairwell be stricken from the record. Mr. Robinson

objected to the testimony because he did not have access to this information prior to the hearing.

The board overruled Mr. Robinson's objection because the prosecution did not have access to this information before the hearing either, and the answer from Officer Crowder was a spontaneous response.

Officer Crowder concluded by stating there is no doubt in her mind that what she saw was Officer Wright's penis.

On cross examination by Wright's counsel, the following colloguy occurred:

Q And that's when you say that here he's - and, in your statement, you said that you saw a penis; is that correct?

A I assume that's what it -

Q Do you recall making - in an interview on June the 15th, when you were asked about whether

or not the - excuse me - the interview was a continuation of the interview of November 17, 1993 - whether you were - in response to a question concerning his penis, whether or not you saw it, you said you "assumed" that it was. Do you recall that statement?

A Sure.

Q So, at that point, you didn't really say that it was. You assumed it was, because that's where Officer's right hand was located.

A No. Because I had never seen anything like that in my life.

Q And was he circumcised or uncircumcised.

A It didn't - I've never seen an uncircumcised person. All I could do is describe what I saw.

Q But you do recall making a statement that you weren't sure what it was.

A I know what it wasn't. But -

Q I understand that too. You said -

A I know what it was. It's just that I didn't - I ain't never seen anything like it. And that's what I said.

Q Okay, So you do have one statement that the State has shown you where you indicated that it was a penis. But you acknowledge that during part of that interview, when asked, you said you "assumed" it was, because it "came out of his pants." Do you remember that?

A Yeah.

On re-direct examination, Crowder further testified:

Q And then, in cross-examination, counsel brought out prior use of the language, "I assume that's what it was, ' or words to that effect.

A Okay.

Q I'd like you to state why you used the words "assume that's what it was" when, on thre other hand, you were sure that's what it was. Can you explain that.

A Okay. Well, I was sure in the sense that it was pulled out from the area, and it just flopped down. And it - I mean, it was - the reason I'm saying "assume," I have never seen anything like it in my life, whether it's in a book or on a man. I have never in my life.

Q Can you - and I know we're getting -

A I can describe what -

Q - in a little bit of a delicate area here, but -

A I can just -

Q Yes.

A I don't want to, but I can just describe what I saw.

Q Please do. Go Ahead.

A He reached in - he unzipped his pants, he pulled it out. It just flopped down. It was - about this much of it was shown in length. It was about - from where I could see, it was about this big. It looked as if it was just cut off on the end. There was no - nothing that I - you know. It wasn't a head or anything. It just looked like it had been just cut off at the end, and it looked like one of those - I don't know - sewage. It looked like it had ridges or something. You know, it - that's what I saw. And it just flopped. It just dropped.

When he pulled it out, it just plooped down.

Crowder also recalled that when Corporal Harlee walked by, just after Wright exposed himself, the Corporal said, "What happened? you look like you saw a ghost."

III. TESTIMONY OF CORPORAL LARRY HARLEE

Prior to the start of roll call, Officer Harlee went into the hallway to get Wright. Corporal Harlee was anxious to get started with roll call and did not want to repeat everything. In the hallway he saw Officers Crowder and Ward with "shocked looks" on their faces. Their jaws were "somewhat slack," their eyes were "slightly enlarged," and the two women "looked like they had seen someone that [had been] decapitated. . . ." Corporal Harlee said to Wright, "Jimmy, what did you do?" Before Wright could answer, Corporal Harlee went back to the roll call area." After roll call, Officer Ward approached the Corporal and told him that Wright had

exposed himself. She requested that the Corporal "talk to" Wright and that he apologize. Corporal Harlee told Ward that this was a "very serious situation" and that if she had a complaint she needed to document it.

IV. TESTIMONY OF APPELLANT, JAMES WRIGHT

Wright testified before the trial board, as follows:

> Q Let's get - in terms of looking at the incident that occurred back on 11/11/93, can you tell us where you were going and what happened?
>
> A Well, it was 6:50 in the morning. I just parked my car, got out, came inside of the building, got off the elevator. I was going to roll call and I looked down the hall, and I seen Officer Crowder and Officer Ward standing there, so I said, "Good morning, Ladies." And Officer Crowder says, "There's a whore in the house." So I kind of laughed

at it. It wasn't a funny laugh, but just to not to get myself involved in the conversation. And she says, "Hey, Home Girl, isn't he the biggest shore." And Officer Ward says, "Yeah. He knows he's a whore."
So I said, "Well, you ladies have a good morning anyway."

And I was approaching the door to put my key in. Officer Crowder says, "You'll have a good day if you get some of this," and she put something in this hole, and she put her hand around her genital area. Both hands was around her genital area. And I looked at her and I says, "What I got to put in that hole is much bigger that the hole." And before I said that, Officer Ward says, "You're going to let her get away with that, Jimmy?" I says - that's when I responded - because it was like a conversation of me responding to what they were saying to me. And I says, "Well, what I got to put in that hole is much bigger than that hole."

And Officer Ward says - Officer Crowder, she kept talking stuff about, "You want me. You know you want me." I said, "No. I don't want you." She said, "Yeah. You been wanting me for 12 years." I said, "No. I don't want you." So I reached for the door, and Officer Ward said, "Look, he's getting a hard on." I said, "No. I'm not getting on a hard on." I placed my hand in my pants like this, and when I -

Q Now, when you're talking about placing your hands in your pant like, can you describe what you're doing so we can understand that -

A I'll stand up. I was standing there slightly to the side, talking to them, and when she said that I was getting a hard on. I placed my hand in my pants like this, and I kind of looked down, but I didn't want them to think that I was getting an erection from what Officer Ward - Officer Crowder was doing. So I

took my hand in my pants, and Officer Ward said, "yes, you are. You're getting a hard on. Look at that. Look at that," and she was standing slightly in front of Crowder. So I did my hand like - put my hand over like this. I had my thumb like this. I had on a long coat. I believe, they were saying I have a short, and I had a long coat on that -

I did my hand like this, and I says, "Now, do you see anything now?" And I turned. When I turned, I put my key in the door, and I went inside to roll call. I got inside roll call Ward says, "I don't believe you did that, I don't believe you did that." I say, "Did what?" And that's when Corporal Harlee walked out, and he said, "Hey, Jimmy," And I said, "What?" He says, "What are you doing to the ladies." I said, "I ain't doing nothing to them ladies, Corporal."

Later in his testimony Wright emphatically denied he had exposed

himself to Crowder and Ward. He testified that the officers were motivated to testify falsely against him because he had been planning to run for Union president and the Crowder and Ward were anxious to defeat him because they supported another candidate. Moreover, as soon as he was notified of the accusations made against him, he offered to take a polygraph examination but was not given one by his employer. He did not get a polygraph examination on his own because he could not afford one.

In regard to the statement by Ward that Wright's penis may not have been circumcised, Wright testified that he was circumcised at birth.

V. METRORAIL SUPERVISOR SMITH'S TESTIMONY

On June 17, 1994, Metrorail Supervisor Charles Smith overheard a conversation between Wright and Crowder. In regard to what Smith assumed was a conversation about the incident in question, Smith heard Crowder say that: 1) she would be glad

when the whole ordeal was over; 2) she did not really see anything because Ward was standing in front of her; and 3) she did not know how much Ward could have seen because of the way Ward and Wright were positioned.

VI. OTHER EVIDENCE

A physician who examined Wright and who videotaped portions of the examination testified the Wright had been circumcised shortly after his birth. Dr, James Levy of Mercy Medical Center examined Wright's penis at MTA's request and found an excessive amount of foreskin, as if from an inadequate circumcision, with only one quarter inch of the head of the penis visible. Dr. Levy noted that the penis as shown by Wright's doctor in the video presented a different appearance than when he personally examined the flaccid organ. The trial board also personally viewed Wright's penis.

Crowder, who was called as a rebuttal witness, testified that she had no recollection of making the

comments attributed to her by Metrorail Supervisor Smith.

VII. TRAIL BOARD'S OPINION

The trial board concluded:

> On November 11, 1993 at approximately 550 hours officers Crowder, Ward and Wright did mutually engage in a conversation in the hallway outside of the roll call room. This conversation was initiated by Officer Crowder when she called Officer Wright a shore. Officer Ward participated by inviting Officer Wright to respond to Officer Crowder's statement. Officer Wright responded verbally and then physically by unzipping his trousers and exposing his penis. No testimony was introduced by either the prosecution or the defense to even suggest that Officer Wright was requested to expose his penis to the two female officers.

The issue raised by the defense as to Officer Wright being circumcised is not disputed by the board. However, the board found that Officer Wright does have a sufficient amount of foreskin To cover all but approximately 1/4 inch of the head of his penis, thus matching the basic description given by both Officer Crowder and Officer Ward.

The board once again rejected defense's argument that the clear and convincing standard should be applied in this case and made our decision based on the preponderance of evidence standard.

VIII. QUESTIONS PRESENTED

Appellant Wright, pro se, lists one question in his brief under the heading "Question Presented," viz:

"Is there a credibility issue with the testimony of the witnesses?"

IX. ANALYSIS
Conflicts in MTA'S Evidence

Appellant contends that MTA's witnesses testified falsely at the hearing and that Chief Foster and the trial board knew, "through the[ir] review of the testimony that [MTA's] witnesses" had given false testimony. In support of this allegation, appellant points to several discrepancies in the testimony of MTA's witnesses.

It is true that there were discrepancies, but due to the presumption that the decision of the agency is correct, coupled with the limited scope of our review, that fact alone does not aid appellant. A court may:

> (3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:

> (i) is unconstitutional;
>
> (ii) exceeds the statutory authority or jurisdiction of the final decision maker;
>
> (iii) results from an unlawful procedure;
>
> (iv) is affected by any other error of law;
>
> (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
>
> (vi) is arbitrary or capricious.

Md. Code Ann., State Gov't s 10-222 (h) (1995 repl. Vol.). If appellant cannot fit some error within one of the categories set forth in section 10-222(h), we will not overturn MTA's actions. First of all, MTA's decision must be reviewed in the light most favorable to it; the decision is prima facie correct and presumable valid. **Bullock v. Pelham Woods Apts.**, 283 Md. 505 (1978). A court cannot substitute its judgment for the agency's if there is substantial evidence to support the agency's action. The "substantial

evidence" test means the court must uphold the decision if a reasoning mind could have reached the factual conclusions the agency reached. **Maryland State Police v. Lindsey**, 318 Md. 325, 333 (1990). The agency, not the court, must resolve conflicting evidence and, where inconsistent inferences can be drawn from evidence must draw the inferences. Bullock, supra. If record evidence supports each fact found, the court cannot substitute its resolution of conflicts or assessment of credibility for that of the agency. **Commissioner, Baltimore City Police Dep't v. Cason**, 34Md. App. 487, **cert. Denied**, 280 Md. 7288 (1977); **Toland v. State Bd, of Educ.**, 35 Md. App. 389 (1977). Proof is weighed by the "preponderance of the evidence" standard.

Meyers v. Montgomery County Police Dep't, 96 Md. App.668, 705-06 (1993).

In the case *sub judice*, a reasoning mind could have believed Officer Ward and Crowder and disbelieved appellant. The female officers both steadfastly maintained

that appellant exposed his penis to them. There was substantial evidence supporting each of the trial board's factual findings. Obviously the trial board found Ward's and Crowder's testimony credible, and there was ample justification for them to do so. Moreover, the inconsistencies pointed out by appellant are minor ones. For example, there is a discrepancy as to whether Ward's initial oral report of the misconduct to Harlee was before or after roll call, a discrepancy as to the exact path Harlee took when he passed Ward and Crowder in the hallway, and a disagreement between MTA's witnesses as to whether it was Ward or Crowder who first filed a written report concerning Wright's actions. It is not our job to resolve such conflicts in testimony or to attempt to judge the credibility of witnesses, which is essentially what appellant asks us to do. **See Tippery v. Montgomery County Police Dep't**, 112 Md. App. 322.333 (1996), and **Meyers, supra**, 96 Md. App. At 708-09. There is no evidence to support appellant's

contention that the board or Chief Foster "knew" that MTA's witnesses had testified falsely. Instead, the record clearly shows that both the board and Chief Foster believed that appellant was untruthful and that Crowder and Ward were truthful concerning what was essentially the sole issue presented, i.e., whether Wright had exposed his penis.

Appellant also argues that the evidence was insufficient to sustain the board's findings that he violated MTA's sexual harassment policy or that he was guilty of conduct unbecoming an officer.

MTA's policy prohibits sexual harassment and reads, in pertinent part, as follows:

> In accordance with federal guidelines and State mandates, the Mass Transit Administration prohibits sexual harassment in the workplace. Sexual harassment is defined as any unwanted sexual attention that women and men experience on the

> job. This harassment may include leering, pinching, patting, verbal comments, and subtle pressure to engage in sexual activity. Also included in the category of sexual harassment is any threat that non-compliance with sexual demands will lead to reprisals. These reprisals can include escalation of the harassment, poor work assignments, sabotaging the employee's work, sarcasm, unsatisfactory job evaluations, threatened demotions transfers, denials of raises, benefits, and promotions, and finally dismissal followed by a poor job reference.

The board found that Wright imposed "unwanted sexual attention" on OfficerCrowder and Officer Ward by exposing his penis to them. The board also found that his self-exposure was "conduct unbecoming an officer." Wright's highly offensive conduct easily fits within the definition of sexual harassment. No woman in the

work force should be subjected to such lewd and disrespectful treatment. Moreover, the conduct was criminal (Md. Ann. Code art. 27, s 335A) and quite obviously constituted conduct unbecoming a police officer.

X. OTHER MATTERS

Appellant, using a disorganized shotgun approach, raises numerous other issues, which do not have anything to do with the one question presented. Many of appellant's arguments concerning these issues are exceedingly difficult to understand. With this handicap, we have attempted to answer the additional issues presented - so long as issues were raised below (see Md. Rule 8-131 (a)) and appellant provided factual and legal support for his contentions.

A. Prior Misconduct by Ward and Crowder

During the trial board hearing, appellant's counsel attempted to prove that three days prior to the incident in question, Officers Crowder and

Ward walked into a dressing room where male officers (but not appellant) were in various stages of undress. Appellant also proffered that Ward, at some unspecified time and place, had "jumped into the arms of a fellow officer . . . [,] wrapped her legs around him and made sexually provocative comments in the presence of other officers." Appellant also sought to prove that in 1985 or 1986 Ward, Crowder, and one other female officer, without his consent, pulled down appellant's pants. Before the board, there was no proffer, however, that appellant's genitals were exposed as a result of this last-mentioned incident.

At the trial board, appellant's counsel sought to cross-examine Crowder and Ward about these episodes. The trial board ruled that these incidents were irrelevant. Appellant contended that the incidents were highly relevant as to the credibility of Crowder and Ward. Proof of sexual misconduct of the type proffered by appellant, if true, would not help the trial board assess the credibility of

Ward or Crowder. The trial board ruled correctly when it excluded such evidence. See also Md. Rule 5-608(b).[1]

B. Denial of Due Process of Law and Equal Protection

Appellant claims he was unconstitutionally and arbitrarily denied due process of law because he was charged by MTA for his (alleged) misconduct, yet MTA did not file any charges against Ward and Crowder for their misconduct. Wright also complains that "at no time contemporaneous with their [mis]conduct" was any police officer

[1]Maryland Rule 5-608 (b) reads:

> Impeachment by Examination Regarding Witness's Own Prior Conduct Not Resulting in Convictions. - The court may permit any witness to be examined regarding the witness's own prior conduct that did not result in a conviction but that the court finds probative of a character trait of untruthfulness. Upon objection, however, the court may permit the inquiry only if the questioner, outside the hearing of the jury, establishes a reasonable factual basis for asserting that the conduct of the witness occurred. The conduct may not be proved by extrinsic evidence.

advised to file charges against the female officers." The short answer to this last contention is that there is no factual basis for it in any portion of the record or records extract, at least none cited by appellant. Appellant fails to point out any least none cited by appellant. Appellant fails to point out any part of the record showing that MTA even knew of the conduct of the female officers prior to the time appellant was charged in the instant case. Moreover, appellant's brief and record extract is silent as to his main premise that MTA filed no charges. Based on appellant's brief, we do not know what, if anything, the MTA did about the incidents after appellant was charged or what, if anything, other officers were told to do in reqard to filing charges against Crowder and Ward. Appellant therefore failed to show that he was denied due process of law.

C. The Chief's Review

Wright claims Chief Foster violated LEOBR requirements in conducting their meeting, which he claims was an unlawful procedure tainting the resulting decision. He claims that LEOBR $ 731 requires the Chief to state, in advance of his meeting with the officer, what he has decided to do any why. A reading of LEOBR $ 731 shows Wright is mistaken:

> The written [Board] recommendation as to punishment are not binding upon the Chief . . . Before the chief may increase the recommended penalty . . . [he] personally shall: (1) Review the entire record of the hearing board proceedings; (2) Meet with the law enforcement officer and permit [him] to be heard on the record; (3) Disclose and provide communication not included in the hearing board record on which the decision to consider increasing the penalty is based. . .; and (4) State on the record the substantial

evidence relied on to support the increase of the recommended penalty.

Art. 27, § 731c. Appellant's interpretation of the stature seems to be that the chief should sentence first, next notify appellant of the sentence and then have a hearing. To say the least, this would be illogical. In any event, appellant's interpretation is contrary to the plain meaning of section 731.

Wright also claims the Chief had an unfair conflict of interest because he was the head of the investigation authority, selected the board members, reviewed their decision, and ultimately terminated Wright. This complaint is better lodged with the General Assembly, which passed the LEOBR statute prescribing the Chief's role at each of these stages. The Chief played exactly the role he was statutorily designated to play, including reviewing the non-binding board recommendations and increasing the penalty based on substantial record evidence. No authority has

been cited by appellant, and we know of none, making this procedure either illegal or unconstitutional.

D. Loss of Portion of Crowder's Testimony

Wright argues the mere unavailability of a complete transcript for Chief Foster to review, is, without more, grounds for this Court to reverse. The Court of Appeals has flatly rejected that suggestion. Bradley v. Hazard Technology Co., Inc., 340 Md. 202 (1995)' In the case at hand, a technical glitch resulted in loss of a major part of Crowder's direct testimony. The trial board, of course, heard the missing portion and summarized it in rendering its written decision. Wright did not contest the accuracy of the summary in his meeting with the Chief, nor did he file any objections or exceptions to the Board's summary prior to his appeal to the circuit court. In **Bradley,** the court squarely held that where a full transcript of an agency hearing is unavailable through no fault of the litigants, an appellant first must

specifically show what appealable error occurred and then demonstrate that the missing portion is relevant to that error. Id., 340 Md. At 211. In other words, an appellant must prove both prejudice and error. Wright has proven neither.

E. Polygraph Examination

Appellant contends that rights granted to him under the Constitution of the United States and Maryland's Constitution were violated because he was "denied a polygraph examination." Appellant has directed us to no statute or provision of either the United States or Maryland Constitution that requires and employer to administer a polygraph examination to an employee where he or she has been accused of misconduct, and we know of none. Article 27, section 728, of the Maryland Annotated Code (1957, 1992 Repl. Vol.), **allows** a law enforcement agency to require that a police officer take a polygraph examination; however, it does not provide that a police officer has a right to demand one.

F. Discovery Violations

Appellant argues:

> Your [a]ppellant was entitled to have the [a]ppellee [p]anel hear testimony and evidence presented at the [h]earing which impeaches and/or otherwise challenges [sic] and credibility of the evidence and witnesses.
>
> This necessarily would include consideration of the entire investigation file(s) along with the [d]iscovery which was denied the [a]ppellant including but not limited to personnel file material, independent records and witnessed [sic] to prior similar conduct discovered by (Internal Affairs) the [a]ppellee during its investigation as well as other evidence that would challenge evidence presented by the complainant and her [sic] witness.The[a]ppellees ([c]hair)abuse of discretion

> in denying this material pre trial, set the stage for what was to be a one sided [h]earing favoring the complainant.
> Rulings provided her side ([a]ppellee) insulation from any evidentiary challenges to prior conduct/character form independent witness(es) including the [a]ppellees' investigators.
> This evidence could not do anything but the [a]ppellant. Your [c]hair realizing this full well, set up intentional barriers of a constitutional dimension [sic] violative of the due process.

Section 10-626-17 of the State Government Article of the Maryland Code (1995 Repl.Vol.) governs access to personnel records of state employees such as Crowder and Ward. It would have been unlawful for the custodian of personnel records of Crowder or Ward to allow appellant'' counsel to review those records. **See id**. With exceptions not here

applicable, those records are privileged. **Id**. Moreover, appellant made no preliminary showing that anything in those records was likely to be material to or even helpful to his defense. **Compare**, **Goldsmith v. State**, 337 Md. 112, 128 (1995) (involving a criminal defendant's attempt to obtain privileged information about a victim in pre-trial criminal proceedings; court held that in order to obtain pre-trial discovery of confidential records a defendant must show "a likelihood of obtaining relevant information").

As can be seen from the excerpt quoted above, appellant also claims he was denied certain other discoverable material. Appellant makes no attempt in his brief to show exactly what was requested in discovery below, or when. Moreover, he points to no portion of the record or joint record extract showing how the trial board resolved the dispute and cites no authority to support the argument that he was entitled to the discovery in the first place. Therefore, this point is waived. "[A]ppellate courts cannot be

expected to delve through the record to unearth factual support favorable to appellant and then seek out law to sustain appellant's position." **Evans v. Shore Communications, Inc.** ___ Md. App. ___ [No. 907, September Term, 1996, slip op, at 27, decided November 27, 1996]; **see also**, **ACandS v. Asner, on motion for reconsideration**, __ Md.__ [No.92, Sept. Term, 1995, slip op. At 4, decided December 6, 1996] ("A party may lose the right to appeal on an issue by failing to indicate in that party's brief the location in the record where the alleged error occurred.")

G. Contentions of Appellant That Are Not Supported By Argument

The appellant asserts that appellee "violated [Wright's] LEOBR and constitutional rights to have counsel present at the medical examination" by Dr. Levy, and

> The [a]ppellees[]violated the [a]ppellant's rights by not conducting [a follow-up investigation on the conduct

> issues after listening to the tapes and taking statements of the officers(non parties) who were present and either participated by being victimized or were observers

We need not consider the merits of Wright's two contentions quoted above, because appellant does not support his position with arguments. The issues are therefor waived. Maryland Rule 8-504(a)(5) states: "A brief [filed before an appellant court] shall contain . . . [an a]rgument in support of the party's position." Appellant waived these issues by failure to comply with this rule. See **Monumental Life Ins. Co v. USF&g Co**., 94 Md App. 505, 544 (11993), and cases therein cited. **See also Kimbrough v. Giant Food, Inc.**, 26 Md. App. 640, 654 (1975).

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT

Court of Special Appeals
Courts of Appeal Building
Annapolis, Md. 21401-1699
(410)974-36446
WASHINGTON AREA (301)261-2920

April 17, 1997

Mr. James E. Wright
814 Argonne Drive
Baltimore, Md. 21218

Re: James Wright v. Mass Transit Administration
No. 740, September Term, 1996

Dear Mr. Wright

On April 15, 1997, this Court denied Appellant's Motion for Reconsideration and Appellee's request for publication of opinion. A copy of the Court's mandate, which issued today, is enclosed.

Very truly yours,

Leslie D. Gradet
Clerk

APPENDIX C

M A N D A T E

Court of Special Appeals

No. 740, September Term, 1996

James Wright

Vs.

Mass Transit Administration

Judgment: February 25, 1997: Per Curiam

Filed.

Judgment affirmed; costs to be Paid by appellant.

March 17, 1997: Request to report the opinion filed by Counsel on behalf of the Office of the Attorney General

March 19, 1997: Motion for Reconsideration filed by Appellant

April 15, 1997: Request to report the opinion denied.

April 15, 1997: Motion for Reconsideration denied.

April 17, 1997: Mandate issued.

STATEMENT OF COST:

In Circuit Court: for BALTIMORE CITY

95137046 ,CL197011

APPENDIX D-1

Record. 60.00
Stenographer Costs. 105.00
Total 165.00*
In Court of Special Appeals:

Printing Brief for Appellant. 111.60
Portion of Record Extract-
Appellant. 414.00
Total 525.60*
Printing Brief for Appellee .1440.00
*Total*1440.00*

STATE OF MARYLAND, SCT:
I do hereby certify that the foregoing is truly taken from the records and proceeding of the said Court of Special Appeals. In testimony whereof. I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals of the seventeenth day of April, A.D. 1997.

Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFFICE

APPENDIX D-2

JAMES WRIGHT * In the

* Court of Appeals
* of Maryland

v. *Petition Docket No.127
September Term, 1997

MASS TRANSIT ADMINISTRATION *(No. 740, Sept.Term 199
Court of Appeals)

O R D E R

Upon consideration of the petition For a Writ of certiorari to the Court Appeals, and the answer filed thereto In the Above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is Hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

CHIEF JUDGE

Date: Jun 27 1997

ORDERED, by the Court of Appeals o Maryland, that the motion be, and it is hereby, denied.

CHIEF JUDGE

APPENDIX E

JAMES WRIGHT	* In the
	* Court of Appeals
	* of Maryland
v	* Petition Docket No.127
	* September Term, 1997
MASS TRANSIT ADMINISTRATION	*(No. 740, Sept.Term 1996 Court of Appeals)

O R D E R

Upon consideration of the motion for reconsideration, in the above entitled case, It is this 10th day of September , 1997

ORDERED, by the Court of Appeals of Maryland, that the motion be, and it is hereby, denied.

CHIEF JUDGE

APPENDIX F